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Attorneys for Defendant
STRYKER CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

D. MALAMA CHOCK,

Plaintiff,

vs.

STRYKER CORPORATION, A MICHIGAN
CORPORATION; STRYKER
ORTHOPAEDICS, AN ENTITY OF
UNKNOWN FORM; STRYKER GMBH, A
SWISS COMPANY,

Defendants.

Case No. 1:21-CV-00996-DAD-BAK (EPG)

**STIPULATION AND ~~[PROPOSED]~~
PROTECTIVE ORDER**

Case Assigned to Honorable Dale A. Drozd
Magistrate Judge Erica P. Grosjean

Complaint Filed: March 12, 2021
Trial Date: None

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff D. Malama Chock ("Plaintiff") and Defendant Stryker Corporation ("Defendant") (each a "Party" and collectively "the Parties"), by and through their respective undersigned counsel, that in order to facilitate the exchange and limit the use and disclosure of confidential, private and/or proprietary information produced by the Parties, the Parties stipulate to the terms of this Protective Order and submit it to the Court for adoption as an Order.

1. Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, and/or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled

1 to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such
2 material in preparation for and in the conduct of trial, to address their handling at the end of the
3 litigation, and serve the ends of justice, a protective order for such information is justified in this
4 matter. The Parties acknowledge that this Protective Order does not confer blanket protections on
5 all disclosures or responses to discovery and that the protection it affords from public disclosure
6 and use extends only to the limited information or items that are entitled to confidential treatment
7 under the applicable legal principles.

8 2. The Parties may designate as “Confidential” under the terms of this Stipulated
9 Protective Order those documents, discovery materials, testimony or information to the extent they
10 consist of or include trade secrets, know-how, confidential or proprietary data, or research,
11 development, or commercial information, the disclosure of which is deemed by the designating
12 party to be sensitive, proprietary or trade secret information or which will likely cause harm to the
13 competitive position of the designating party or which will disclose or tend to disclose aspects of
14 technology or equipment that is otherwise not public information, and may include financial
15 information, information relating to ownership or control of any non-public company, and any
16 other information subject to confidentiality limitations protected from disclosure due to applicable
17 state laws, federal laws, or privacy rights (“Confidential Materials”).

18 3. With respect to the confidential or trade secret portion of any documents or material,
19 other than deposition transcripts and exhibits, the designating party may designate the portion as
20 “Confidential” by stamping or otherwise clearly marking the protected page, passage, or item as
21 “Confidential” in such a manner that will not interfere with legibility or audibility.

22 4. With respect to deposition transcripts and exhibits, a party may designate on the
23 record that a question calls for confidential discovery material, in which case the text in the
24 transcript where these questions or answers occur shall be specially marked as a separate page
25 stamped “Confidential Information —Subject to Protective Order” by the court reporter. A party
26 may also designate deposition exhibits as “Confidential,” and such exhibits should be specially
27 marked “Confidential — Subject to Protective Order” by the court reporter. Such designations may
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1 be made either (1) on the record at the time of the deposition, or (2) by writing within 30 days of
2 receipt of the final transcript by counsel for the designating party. For convenience, the parties may
3 agree that entire deposition transcripts shall be treated as confidential discovery material.

4 5. Confidential Materials, including media, will be maintained in confidence by the
5 Parties and used solely for the purposes of this proceeding, and any appeal thereof, and will not be
6 disclosed by the Parties to any person, except to:

7 a) Counsel of Record for the Parties in this action only, including partners,
8 associates, co-counsel, legal assistants, secretaries, paralegals or other support staff of such counsel
9 assigned to assist counsel;

10 b) experts, consultants, accountants, and other third parties expressly retained or
11 employed by counsel of record for the Parties to assist in the preparation of this proceeding, whether
12 or not the third party will subsequently testify in the proceeding, provided that the third party has
13 first signed a non-disclosure agreement in the form attached to this Protective Order;

14 c) Any witness who counsel for a Party in good faith believes may be called to
15 testify at trial or deposition in this action, provided such person has first executed a non-disclosure
16 agreement in the form attached to this Protective Order;

17 d) court reporters in this proceeding;

18 e) the court, mediators, and their support personnel; and

19 f) any other person that the designating party agrees to in writing.

20 g) Prior to the disclosure of Confidential Material to any person referred to in
21 subparagraphs (b), (c) or (f) of paragraph 5 above, the person shall first be provided by counsel
22 with a copy of this Protective Order and shall sign a non-disclosure agreement in the form attached
23 as Exhibit "A" hereto. The non-disclosure agreement will state that the person has read this order
24 and agrees to be bound by its terms. All non-disclosure agreements will be maintained throughout
25 this action by the attorneys obtaining them.

26 6. Any person receiving Confidential Materials will not reveal the materials to, or
27 discuss the materials with, any person who is not entitled to disclosure of the materials under
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1 paragraph 5 above.

2 7. A party may not file any Confidential Materials in the public record in this action
3 without written permission from the designating party or a court order secured after appropriate
4 notice to all interested persons. Confidential Materials may only be filed under seal pursuant to a
5 court order authorizing the sealing of the specific Confidential Material at issue pursuant to Local
6 Rule 141. Confidential Materials may be referred to by the Parties or their counsel of record in any
7 testimony, affidavits, briefs, memoranda of law, or other papers filed in this proceeding, provided
8 that the Court is advised of the confidential nature of the information and the Parties designate that
9 the confidential materials be filed under seal.

10 8. Production of Confidential Materials does not waive objections by the Parties as to
11 the admissibility of the materials in evidence. No party shall be deemed to have waived its right to
12 seek the admission of these materials into evidence by consenting to this Protective Order.

13 9. If any Confidential Materials are subpoenaed by any court, regulatory,
14 administrative, or legislative body, or by any person purporting to have authority to subpoena such
15 information (other than a Party to this matter), the parties shall promptly notify the designating
16 party of the pendency of such subpoena or order. In no event shall documents or information
17 designated as "Confidential" be produced prior to the expiration of ten (10) business days following
18 confirmation of receipt of written notice by the designating party. With respect to any subpoena,
19 the designating party shall have the burden and the expense of seeking the protection, if any, in the
20 applicable court. No party will object to the designating party having a reasonable opportunity to
21 appear in any litigation or proceeding commanding disclosure of such protected material for the
22 sole purpose of seeking to prevent or restrict disclosure thereof.

23 10. Inadvertent production of any document or other information by the Parties during
24 discovery will be without prejudice to any claim that the material is privileged or protected from
25 discovery as work product. The Parties will not be held to have waived any such privileges by
26 inadvertent production. Such document or information will not be subject to production in another
27 proceeding by virtue of the fact that it was inadvertently produced in this proceeding. Additionally,
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1 a designating party may designate a previously produced undesignated document as “Confidential”
2 after it has been produced by advising all other parties in writing. The designated document will
3 thereafter be treated as Confidential Materials. However, no party shall be penalized in any way
4 for disclosing such materials prior to receiving notice from the designating party.

5 11. If a party believes the designating party has improperly designated material as
6 confidential or improperly redacted material, it may file a motion requesting the Court to remove
7 such designation or redaction. Before filing such a motion, the objecting party shall attempt to
8 resolve the dispute regarding the designation or redaction by serving a written notice to counsel for
9 all interested parties explaining the basis for its belief the designation or redaction was improper
10 and then meeting and conferring with the designating party. On any such motion, the party
11 designating the material as confidential or redacting the material shall have the burden of proving
12 that the material was correctly designated as confidential or properly redacted. Until a dispute is
13 informally resolved or a court order is obtained, the material designated as “Confidential” shall
14 remain confidential pursuant to this Protective Order.

15 12. Nothing contained herein will be construed or applied to affect the right of any Party
16 to discovery under the applicable rules or to prohibit any Party from seeking such further provisions
17 or relief as it may deem appropriate or desirable regarding the matter of confidentiality of material
18 or this Protective Order.

19 13. Before receiving any Confidential Materials, any new party to this action must agree
20 to be bound by the terms of this Stipulated Protective Order as if the party had stipulated to it at the
21 time of entry. No newly added party shall have access to any Confidential Materials until the party
22 is subject to the terms of this order.

23 14. All counsel shall keep all Confidential Materials which are received under this
24 Protective Order within its exclusive possession and control, except as provided in paragraph 5,
25 and shall take reasonable steps to maintain such material in a secure manner. Except as provided
26 in paragraph 5 above, no person shall have access to the foregoing material and information.

27 15. This order shall survive the termination of this action. Within 30 days of the final
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1 disposition of this action, all Confidential Materials (including any summaries, abstracts, indices,
2 or copies of “Confidential” information) marked as such by any Party shall promptly be returned
3 to the designating party, or at its written request, destroyed. The return or destruction of the material
4 will be certified in writing by the respective Parties’ attorneys not more than 30 days after final
5 conclusion of this action. For purposes of this Order, final conclusion shall be taken as the date on
6 which a stipulated dismissal is filed or a final, non-appealable order disposing of this lawsuit is
7 entered.

8 16. The court shall retain jurisdiction over all persons and parties subject to this order to
9 the extent necessary to modify this order, enforce its obligations, or to impose sanctions for any
10 violation.

11 17. Nothing in this order shall prevent any party from seeking further or additional
12 protection, or removing protection, for confidential discovery material.

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14 The Parties agree and stipulate to the entry of this Order.
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1 Dated: May 6, 2022

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO,
P.C.

2 /s/ Arameh Zargham O'Boyle

3 Arameh Zargham O'Boyle
4 Esteban Morales

5 Dated: May 6, 2022

Attorneys for Defendant
STRYKER CORPORATION
LAW OFFICE OF MARK J. LEONARDO

6 /s/ Mark J. Leonardo (as authorized on 5/5/22)

7 Mark J. Leonardo

8 Attorneys for Plaintiff
9 D. MALAMA CHOCK

~~PROPOSED~~ ORDER

Based upon the stipulation of the Parties, through counsel of record, and good cause appearing, the above Stipulated Protective Order **IS SO ORDERED**.

IT IS SO ORDERED.

Dated: May 11, 2022

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3 D. MALAMA CHOCK,

4 Plaintiff,

5 vs.

6 STRYKER CORPORATION, A MICHIGAN
7 CORPORATION; STRYKER
8 ORTHOPAEDICS, AN ENTITY OF
9 UNKNOWN FORM; STRYKER GMBH, A
10 SWISS COMPANY,

11 Defendants.

Case No. 1:21-CV-00996-DAD-BAK (EPG)

**EXHIBIT “A” TO STIPULATION AND
[PROPOSED] PROTECTIVE ORDER**

Case Assigned to Honorable Dale A. Drozd
Magistrate Judge Erica P. Grosjean

Complaint Filed: March 12, 2021
Trial Date: None

11 I, _____, acknowledge that I have read in its entirety and
12 understand the Stipulation and Protective Order (“Protective Order”) in this action governing the
13 non-disclosure of information designated as Confidential Materials. I agree that I will not disclose
14 such Confidential Materials to anyone except as expressly permitted by the Protective Order and
15 only for purposes of this action, and that at the conclusion of the action I will return all such
16 Confidential Materials to the party or attorney from whom I received it. By acknowledging these
17 obligations under the Protective Order, I understand that I am submitting myself to the jurisdiction
18 of the above-referenced court, for the purpose of enforcing the terms of this Protective Order, and
19 that my violation of any term of the Protective Order could subject me to punishment for contempt
20 of Court, even if such enforcement occurs after termination of this action.

21
22 Dated this _____ day of _____, 202__.

23
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25 _____
Printed Name

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27 _____
Signature